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NEHRU AND THE SECULAR STATE OF INDIA

by

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PREFACE

Pundit Jawaharlal Nehru was one of the few political leaders of our time who was at the same time almost venerated by his followers and bitterly reviled by some of his political opponents inside the country and by some commentators abroad. Despite possible difference of opinion regarding his various policies, one has to compliment him highly for his great contribution towards the building up of modern India. He directed safely the destinies of free India for seventeen years against innumerable odds.

Nehru's greatest contribution to India and to the world should be the part he played in the building up of an India in which all could live together irrespective of race, religion, colour, or caste. To appreciate the importance of this achievement one has to look into the actual circumstances in which Nehru operated.

The over all purpose of this thesis is to bring out clearly Nehru's views on the secular state and to examine how he tried to put them into practice in the complex and confused social and religious situation in India. This cannot be achieved without examining, to some extent at least, the dominant social, religious and political tendencies of the time in India. Chapter I will provide a short biography of Nehru and an analysis of his

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attitude towards religion in general. Chapter II will deal with Nehru's ideal of the secular state. Chapter III will give a short description of the Indian background and then will examine in some detail some of the specific socio-political problems Nehru had to face as the Prime Minister of India and the way he handled those problems. The last chapter contains an evaluation of Nehru's policies and a short conclusion.

There are a few studies on Nehru's political philosophy in general. Among them I have come across one study by Donald E. Smith, Nehru and Democracy which has a chapter entitled Nehru and the Secular State. This is a factual survey which does not deal with the background in which Nehru was operating. Nehru's own writings and speeches were the primary source for this study. I could not make use of the reports, comments and analyses in Indian newspapers as much as I wanted as their availability was limited.

Chicago — Rev. Victor Z. Narivelil

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CHAPTER I

INTRODUCTION

Finally the long awaited date came and the much expected freedom with it. On August 15, 1947 India became independent. Agonies and sufferings of the past were forgotten for the time. The night before was the end of a long era, an era of epic struggle for freedom. That day India started a new life. The entire nation was restless. As drums rolled and conches blew the midnight hour, India moved from foreign rule to freedom. Even the illiterate peasants knew it, because they all took part in the long struggle for freedom.

India's struggle for freedom was unique in nature. Freedom was won not by military power or through bloody revolution. On the contrary, it was won by the moral force of millions. Freedom movement under the leadership of Gandhiji demonstrated a new kind of resistence, and a great empire showed a new kind of response. "After a unique struggle extending over thirty years, the British withdrew from India suddenly, peacefully and with dignity, and most extraordinarily of all, with friendship of the Indian people."[1] There was no final terrible explosion as many expected.

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[1]Chester Bowles, Ambassador's Report. Harper & Brothers, New York, 1954, p. 55.

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Once freedom was achieved, Gandhi, the architect of the freedom movement, kept himself out of political leadership of the country. So it fell into the hands of Jawaharlal Nehru, whom Gandhi himself once called his "political heir." So Jawaharlal Nehru became the first Prime Minister of the independent India -- a land of ancient culture and tradition, a mass of people, long subjugated by a colonial power. Nehru's speech before the Constituent Assembly during the political power transfer ceremony was really an expression of the mood of the country. He said:

> Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. It is fitting at this solemn moment we take a pledge of dedication to the service of India and her people and to the still larger cause of humanity.[2]

It was a great speech for a great occasion and it revealed to a great extent the character of the man who made that speech. Freedom was delightful to Nehru and the people. But all was not joy on that day. Millions were leaving their homes and possessions that night and crossing the borders of India and the newly born Pakistan. Men were killing each other in the name of religion. Freedom was won without a war and bloodshed, but the day freedom was achieved was marked with blood. With the arrival of freedom India was divided into two

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[2]J. Nehru, Speech Before the Constituent Assembly of India, August 15, 1947.

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countries on the basis of religion. Ancient India was and still is a land of religions, but Hinduism and Islam were the dominant ones.

Men of vision and goodwill pleaded long for a united India. But their voice was a cry in the wilderness to the fanatics on both sides and to those who wanted to keep their colonial interest as best as they could. The latter group exploited every bit of the communal rivalry for their own purpose. Prophecies of doom filled the air. It was, indeed, a terrible experience for a young nation. It required a good deal of optimism to have faith in the future. It was a challenge to all, especially to Mr. Nehru. But he saw it differently. He said that "the worst had already happened, right at the beginning." So he thought that nothing worse could ever happen.

For Nehru freedom meant more the beginning of the new than the end of an old road. "Behind him that night stretched the long story of the past, with its milestones of toil, tragedy and triumph. But clearly, also, rose a vista of the future. Freedom was not the end, only the means to an end."[3] The end is a prosperous, free India, where all her children can live happily and fulfill their service to the country and humanity.

When freedom came Jawaharlal Nehru was fifty-eight. Of those fifty-eight years some twenty-seven had been spent in political toil and struggle, of which again almost ten years were spent in prison. In 1921 he went to jail for the first time.

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[3]Frank Moraes, Jawaharlal Nehru: a biography, Macmillan Co., New York, 1956, p. 3.

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His last and longest term of jail -- 1041 days -- ended on June 15, 1945. In between he was in and out of jail seven times.

Biographical Notes

Jawaharlal Nehru was born in Allahabad on November 14, 1889, in one of the wealthiest families of India. His parents were Kashmiri Brahmins. Jawaharlal's father, Motilal Nehru was a highly successful lawyer, who had great admiration and appreciation for the English men and their ways and early in his life adopted westernized habits.

When Jawaharlal was eleven years old, Ferdinand T. Brooks started to tutor him and influenced him greatly in the field of theosophy and science.[4] In 1905, at the age of fifteen, Nehru was taken to England and there he began his studies at Harrow. At Harrow Nehru developed his interest in politics and international affairs. He read several volumes on Garibaldi. "Visions of similar deeds in India came before me, of a gallant fight for freedom, and in my mind India and Italy so strangely mixed together."[5] From Harrow Nehru went to Trinity College, Cambridge, where he majored in science. Nehru left Cambridge in 1910 and studied law in London for two years. During this period, Nehru was attracted to the Fabians and socialistic ideas, more as an intellectual fad than anything else.[6]

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[4] Jawaharlal Nehru, Towards Freedom, John Day Co., New York, 1941, pp. 27-29.

[5] Ibid., p. 32.

[6] Ibid., p. 38.

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While Nehru was studying at Trinity College, Cambridge, Indian political scene was one of great unrest. The extremists under Tilak took the leadership of independence movement. Nehru himself later in his autobiography said that his sympathy was with these extremists.[7] One of the books that influenced Nehru's political thinking very much at this time was Meredith Townsend's Asia and Europe.

In 1912 Nehru returned to India after completing his studies in England. Nehru was very much influenced by the English culture and education. Later he wrote in his autobiography:

> Personally, I owe too much to England in my mental make-up ever to feel wholly alien to her. And, do what I will, I cannot get rid of the habits of mind, and the standards and ways of judging other countries as well as life generally, which I acquired at school and college in England.[8]

British liberalism and humanism had deeply impressed Nehru. Later on, this helped him to judge things from a different angle from that of many of his co-workers in politics and government. Nehru felt it clearly and wrote later:

> I have become a queer mixture of the East and the West. Out of place everywhere, at home no where. Perhaps my thoughts and approach to life are more akin to what is called Western than Eastern, but India clings to me, as she does to all her children, in innumerable ways; and behind me lie, somewhere the subconscious, racial memories of a hundred, or whatever the number may be, generations Brahmans. I cannot get rid of either that past inheritance or my recent acquisitions. They are both part of me, and though they help me in both East and the West, they also create in me a feeling of spiritual loneliness not only in public activities but in life itself. I am a stranger and alien in the West. I cannot be of it. But in my own country also, sometimes, I have an exile's feeling.[9]

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[7] Ibid., pp. 34-35. [8] Ibid., p. 266. [9] Ibid., p. 353.

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Having returned to India, Nehru practiced law in Allahabad High Court for a while. But legal profession never interested him. In 1916 Nehru joined the Home Rule League of Mrs. Annie Besant. Still his political sympathies were with Tilak. He was tired of the endless talks of the Moderates and wanted to work toward the goal of complete independence.

It was at the Lucknow Congress of 1916 that Nehru first met Gandhi. He had great admiration for Gandhi because of Gandhi's great struggle in South Africa against racial injustice. Yet Nehru, along with other young men, considered Gandhi as an idealist and unpolitical man. During all this period Nehru kept himself away from active politics. He was a 'pure nationalist' and the vague socialistic ideas of college days did not play a great role in his life. In 1916 he married Kamala Kaul and their daughter, Indira was born in the next year. He read Bertrand Russell's books with great interest during the war years and later. This awakened his socialistic ideas, which he later described as 'more humanitarian and utopian than scientific.'[10]

Two incidents in this period influenced Nehru's outlook profoundly. One was his meeting of Gandhi whom he earlier considered as an idealistic and unpolitical man. But Gandhi's influence in the Congress was steadily increasing and by 1920 he got a better hold on the Congress. About Gandhi's influence on Nehru, Mrs. Krishna N. Hutheesing, Nehru's youngest sister later wrote:

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[10] Ibid., p. 44.

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> Meeting Gandhiji changed Bhai's (brother) outlook on life, both politically and socially. After many domestic storms with his father, who tried to dissuade him from rushing headlong into the political arena, Bhai joined Gandhiji. A little later Father did likewise. Bhai shed his immaculate suits to don rough hand-spun and hand-woven cloth called 'khadi'. From a foppish young man with no particular ambition in life but who had become interested in theosophy and in the mild politics of the Home Rule League, Bhai changed overnight and worked for the cause of freedom with almost fanatical zeal.[11]

The other incident was his first contact with the kisan (peasant) movement in Oudh. He spent three days with the peasants and his experience there marked a turning point in his life.

> Looking at them and their misery and overflowing gratitude, I was filled with shame and sorrow -- shame at my own east-going and comfortable life and our petty politics of the city which ignored this vast multitude of semi-naked sons and daughters of India. A new picture of India seemed to rise before me, naked, starving, crushed, and utterly miserable.[12]

Gandhi's rise to prominence in the Congress indicated a change in Congress' approach to independence. Non-violent civil disobedience was Gandhi's answer to the British refusal to grant independence to India. In 1921 Nehru went to jail for the first time. Between 1921 and 1945 Nehru was in and out of jail for seven times.

Nehru's interest was not limited to the independence of India alone. In 1926 Nehru returned to Europe for a visit which lengthened out to a year and nine months. This period had great influence on Nehru's political thinking. This long trip to

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[11] K. N. Hutheesing (ed.), Nehru's Letters to His Sister, London: Faber and Faber, 1963, p. 9.

[12] Nehru, Toward Freedom, pp. 56-57.

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Europe gave him a better opportunity to analyse the Indian problem from a wider perspective. He attended the Congress of Oppressed Nationalities held in Brussels, as the representative of the Indian National Congress. The Brussels Congress, in which communists played an important role, revealed to Nehru the inner conflicts of European labour. Communism impressed Nehru. He later wrote:

> So I turned inevitably with good will toward communism, for, whatever its faults, it was at least not hypocritical and not imperialistic. It was not a doctrinal adherence, as I did not know much about the fine points of communism, my acquaintance being limited at the time to its broad features. These attracted me, as also the tremendous changes taking place in Russia.[13]

Communist methods, however, did not impress him. He considered them as dictatorial and vulgar.

In 1927 Nehru made his first brief visit to Russia. He wrote several articles on his impressions of Russia in Indian newspapers, and these were later published in book form.[14] On the whole, his impressions were favourable. At the same time he showed cautious and discerning judgment in evaluating what was happening in the Soviet Union. He noted particularly the lack of humaneness in dealing with political prisoners. "The Soviet Government has a special and a ruthless way of treating its political opponents and all those whom it may suspect of counter-revolutionary activities."[15]

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[13] Ibid., p. 126.

[14] Jawaharlal Nehru, Soviet Russia: Some Random Sketches and Impressions, Chetana Ltd., Bombay, 1929.

[15] Ibid., p. 76.

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Politically Nehru was a considerably different individual, when he returned to India by the end of 1927.

> My outlook was wider, and nationalism by itself seemed to me definitely a narrow and insufficient creed. Political freedom, independence, were no doubt essential, but they were steps only in the right direction; without social freedom and a socialistic structure of society and the State, neither the country nor the individual could develop much.[16]

Nehru, however, did not commit himself to any particular social ideology until a couple of years later. Nationalism continued to be the main thread in the fabric of his political thinking.

Coming back from Europe, Nehru plunged himself into the struggle for independence with greater enthusiasm. He travelled the country widely and addressed many public meetings. At the same time, he tried to build up an ideology for the Congress, in the frame work of which it could work for a free India.

On September 29, 1929 Gandhi proposed Jawaharlal Nehru's name for the Congress presidency at the Lahore session. He was elected to the Presidency on October 1, 1929, to succeed his father Motilal Nehru. Congress Presidency was the greatest honour at the time the country could offer. But the 1930's meant great personal loss to Nehru. Motilal Nehru died in 1931. Then his wife Kamala died on February 28, 1936 in Switzerland. And finally his mother Swarupani died in 1938. In between he got plenty of time in jail to write his first book Glimpses of World History. Written in the form of letters to his young daughter, this book presented what the title so aptly described -- brief insights into history, from the ancient civilizations to the depression of 1929.

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[16]Nehru, Toward Freedom, p. 128.

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It reflected his political philosophy to a great extent.

Nehru seemed to have presupposed the basic validity of Western political democracy. In some of his letters he criticized the Western democracy mostly for its failure to cope with the social ills of the society. He said that political democracy had produced a superficial and unreal equality by giving every man one vote. But the poor man's one vote had not protected him from economic exploitation. "A vote is of little use to a hungry man."[17]

By the end of the 1930's communal spirit was growing in Indian politics. Under the leadership of M. A. Jinnah the Muslim League in 1940 finally demanded the partition of India and the creation of a separate Muslim State. Nehru was obviously disheartened by this development. He abhored communal approach to political and economic problems. Independence did not mean much to him unless it was followed by economic and social progress. He said that he was incapable of understanding why there should be a communal problem. In his correspondence with Mr. Jinnah, he showed this clearly. However, the communal problem remained in Indian politics and it evidently hindered the progress toward independence.

During all this period he worked closely with Gandhi. But they differed considerably on the image of the future India for which they were fighting. Nehru had thought more systematically about the whole problem and his international, liberal

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[17] Jawaharlal Nehru, Glimpses of World History, Asia Publishing House, London, 1962, p. 546.

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outlook drew a different picture of India from that of Gandhi. Still, both had great respect for each other and both were totally dedicated to the cause of India.

Poverty and illiteracy were not the only problems that the new India had to face. The India that Nehru and the Congress envisioned had never been before a political entity. Geographically, of course, it was one unit. However, it was divided into pieces and the major portion was ruled by the British and the rest was ruled by different princes and kings. People professed different religions, though the population was always predominently Hindu. There was a sizable amount of Muslim population too. Besides these two major groups, there were different small religious groups like the Buddhists, the Sikhs, the Christians, and the Parsees. Difference of religion created a political problem because of the mutual suspicion that existed mainly among the Hindus and the Muslims. This suspicion was well exploited by the colonial powers and other interested groups on both sides.

Attitude Towards Religion

Nehru was a Hindu by birth but he was raised in a different environment. He grew up under the influence of British rationalism and humanism. And these were the forces that influenced his thinking and approach to life, not the Hindu society in particular. He spoke and wrote extensively on various subjects. But his utterances on religion are comparatively few. Nehru's political biographer Vincent Sheean puts it thus:

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> What is not in the least intimate, but perfectly public and spread upon many records, is the singularity of Nehru's views in all those matters which have concerned him, political, and literature, life in general. It is shown in innumerable details. In 1947, during my first talk with him, I came somewhere near this subject by asking him what he admired in Sanscrit literature. He spoke of a number of things, poems and plays, particularly of the charming comedies of Kālidasa, and never once mentioned the vast religious literature of ancient India, the Vedas and Upanisheds, the epics, or even Bhagavad Gita.[18]

The same author further testifies that he does not discover in Nehru's printed works or in any talk he had with him one vestige of the religiosity which otherwise obsesses Hindu culture. "This is truly extraordinary in India. I have never met any other Indian who could sustain a closely knit conversation for two or three hours at a stretch without bringing into it something of a religious nature, some concept which originates in religion."[19]

Nehru's attitude toward religion was one of complete indifference. Whenever he discussed the subject in his writings his approach was critical. While he acknowledged the great role played by religions and their founders, and he had no complaint against them, he was not kind to the later development of religion. He said:

> There can be no doubt that the founders of the great religions have been among the greatest and noblest men that the world has produced. But their disciples and the people who have come after them have often been far from great or good. Often in history we see that religion, which was meant to raise us and make us better and nobler, has made

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[18] Vincent Sheean, Nehru: The Years of Power, Random House, New York, 1960, p. 23.

[19] Ibid., p. 22.

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> people behave like beasts. Instead of bringing enlightenment to them, it has often tried to keep them in the dark, instead of broadening their minds, it has frequently made them narrow-minded and intolerant of others. In the name of religion many great and fine deeds have been performed. In the name of religion also thousands and millions have been killed, and every possible crime has been committed.[20]

Nehru was not very sure about the meaning of religion. For him it did not offer anything worth while to strive for. Besides, the ideals proposed by all religions seemed to him to be wholly selfish. In one of his letters to Indira he wrote:

> For some people religion means the other world: heaven, paradise or whatever it may be called. In the hope of going to heaven they are religious or do certain things. This reminds me of the child who behaves in the hope of being rewarded with a jam puff or jalebi! . . . For, after all, there is no essential difference between the jam puff and the idea of paradise. We are all more or less selfish. But we try to train up our children so that they may become as selfish as possible. At any rate, our ideals should be wholly unselfish, so that we may try to live up to them.[21]

Why should one be so much concerned about the next world while there are so much to be done in this world? This surely is not an attitude common among the Hindus, who believe in karma[22] and re-incarnation. Such an attitude might be called a typical rationalist attitude. Perhaps the greatest influence of British rationalism on Nehru is evident here. On religion and after life he wrote again to Indira:

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[20] Jawaharlal Nehru, Glimpses of World History, Asia Publishing House, London, 1962, p. 38.

[21] Ibid., p. 39.

[22] The concept of karma is essential to Hinduism. It is closely connected to its theory of metempsychosis or re-incarnation. If man leads a good life his next life will be more happy. If not he will re-incarnate as a lower type of being. This process will continue until he reaches the stage of absolute self-realization.

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> I am afraid the next world does not interest me. My mind is full of what I should do in this world, and if I see my way clear here, I am content. If my duty here is clear to me, I do not trouble myself about any other world.[23]

Nehru did not favour any particular religion either. Some conclude that he had a greater respect for Buddhism. But if this was his choice, he himself did not ever make this explicit. He wrote to his daughter that she should make her decision on religion only after considering all aspects of the issue:

> As you grow up, you will meet all kinds of people: religious people, anti-religious people, and people who do not care either way. . . . And you will have to think about these matters and decide for yourself. One can learn much from others, but everything worth while one has to find out or experience oneself. There are some questions which each person has to answer for himself or herself.[24]

Nehru's indifference to religion was caused partly by the Hindu way of life and partly by his British education. The Hindu religion is something that permeates through the whole society in as much as it is more a way of life than a set of doctrine which is essential to salvation. Hinduism is not an organized religion like the Catholic Church. Nehru did appreciate some of the values of Hinduism, but at the same time he was opposed to its over all dominance over the individual and the society;

> Our lives are encumbered in the dead wood of this past; all that is dead and has served its purpose has to go. But that does not mean a break with, or a forgetting of, the valid and life-giving in that past.[25]

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[23] Nehru, Glimpses of World History, p. 39.

[24] Ibid., loc. cit.

[25] Jawahelal Nehru, Discovery of India, John Day Co., New York, 1946, p. 520.

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Nehru had a distinctive distaste for dogma and organized religion. For him truth, as ultimate reality, must be eternal, imperishable, unchanging, eluding human comprehension. Therefore, he considered dogmatic formulation of truths as incomplete and a hindrance to growth and development:

> Truth as ultimate reality, if such there is, must be eternal, imperishable, unchanging, But that infinite, eternal, and unchanging truth cannot be apprehended in its fullness by the finite mind of man which can only grasp, at most, some small aspect of it limited by time and space, and by the state of development of that mind and the prevailing ideology of the period.[26]

Past formulation of a truth as a dogma is only a partial answer and in as much as it refuses to take into account other aspects it fails to answer the urgent questions of succeeding ages. This rigidity of dogma in the long run, according to Mr. Nehru, only hinders the progress of humanity.[27]

Comparing the methods of science and religion, Nehru said that they differ very much since religion is concerned principally with the regions beyond the reach of objective enquiry relying on emotion and intuition. On organized religion Nehru said:

> Organized religion, allying itself to theology and often more concerned with its vested interests, than with things of the spirit, encourages a temper which is the very opposite to that of science. It produces narrowness and intolerance, credulity and superstition, emotionalism and irrationalism. It tends to close and limit the mind of man, and to produce a temper of dependent, unfree person.[28]

Nehru entered politics with this frame of mind as far as religion was concerned. His own religion seemed to be service to

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[26] Ibid., p. 521. [27] Ibid., pp. 521-522.

[28] Ibid., p. 524.

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humanity. He was moved by the poverty and misery of millions in India. Being a liberal idealist with great hopes he had great plans for the future of India. For him the yoke of colonialism was the greatest hindrance to progress in India. So he threw himself deeply into the struggle for independence. In the initial period of that struggle religious prejudice was not a great problem, especially since the entrance of Gandhi into the field. In the beginning Gandhi attracted a great many Muslim leaders too into the Congress. But later the so-called communal problem creeped into politics which finally caused the partition of India. We will discuss Nehru's stand on this issue in the next chapter.

The horrors of the Second World War shocked Nehru's idealism and his optimism and confidence in a bright future for the world became clouded. His socialistic ideals were not wholly acceptable to the vast majority of the Congress leadership. The early 1940's were the crucial years of the independence movement. In August 1942 the All-India Congress Committee debated and passed the 'Quit India Resolution', and a few days later Nehru was in Ahmadnagar Fort Prison. This term of almost three years lasted until June, 1945. During the period April-September, 1944 Nehru produced what many consider his best writing, The Discovery of India.

With the Labour's coming into power in England there was greater hope for an early answer to the Indian question. Now the obstacle to the solution appeared to be the communal problem or the insistence of the Muslim League for the partition of India

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and the creation of Pakistan. Congress and the nationalist Muslims were against the demand of the Muslim League. Negotiations began for finding a solution acceptable to both groups, but without any avail. Finally, India was partitioned and the new Muslim State, Pakistan was created. As the Prime Minister of the Interim Government, formed in August, 1946, Nehru played a leading role in the final settlement. Nehru was called upon to form the Interim Government because he was the Congress President in 1946. When independence was achieved in 1947 he continued in that capacity. Gandhi kept himself away from all political posts and evidently wanted Nehru to take the leadership of the country.

In the post-independence period, with the disappearance of Gandhi and Patel from the scene, Nehru's burden increased. But for seventeen years he worked hard for a strong, democratic India. In many areas he had phenomenal success. But the problems of Modern India are far too deep and extensive to be solved by two decades. Nevertheless, one of modern India's great achievements is the building up of a strong foundation for a secular democracy. In the following two chapters we will analyze Nehru's role in this great effort.

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CHAPTER II

THE SECULAR IDEAL

To many, India and Hinduism had been identical for centuries and the firm grip of Hinduism on the individual should cause one to pause for a while before starting to talk about a secular India. The religious inclination and the stoic temperament of the people are equally well known. Added to this is the fact that the vast majority of the people are Hindus. In these circumstances, the emergence of India in the mid-twentieth century as a secular state is a significant development.

Its Nature

The concept of secular state is definitely Western and it crystallized from long periods of conflicts between the Church and the State in Europe arising from the conflicting claims on the allegience of the individual by both authorities. This problem eluded any definite solution for a long time and a gradual answer was found with the division in the Church and the rise of different churches. The case in India was entirely different where Hinduism had never been an organized religion. Yet the Hindus are very proud of their cultural and religious heritage and would have liked very much the creation of a Hindu national state after the independence. This sentiment had considerable

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support especially after the partition and the creation of Pakistan.

The leadership and influence of Jawaharlal Nehru had much to do in the creation of a secular, democratic India. Almost all observers of the Indian scene would agree that credit should go to Nehru for his great contribution to India and to the world in this direction. Chester Bowles after his first term of Ambassadorship in India wrote of Nehru in this connection:

> One of his greatest achievements is the creation of a secular state in which the forty-five million Muslims who chose not to go to Pakistan may live peacefully and worship as they please.[1]

Before entering into a discussion of Nehru's theory of secular state we should bear in mind that he could in no sense be regarded primarily as a political philosopher. He was a political leader, a politician, who had read widely and thought deeply about the problems of democracy. His philosophical mind, however, helped him to interpret the day-to-day problems of democracy with a certain theoretical perspective. However, he was far from being an original thinker in political theory. Though a man of great sensitivity, he could absorb and combine in himself many of the prevailing impulses and ideas of modern democratic thought.

In his writings and speeches before independence, Nehru always stood for a liberal democracy in India, although he never dealt with the subject of secularism as such. However, during and after the independence struggle he clearly spelled out his position regarding different religions and urged others in public

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[1]Chester Bowles, Op. cit., p. 104.

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life to work for a democratic republic, with equal rights to all without any distinction of religion or caste.

For Nehru, the very concept of the secular state was an ideal to be striven for. In as much as it is an ideal, it goes beyond laws and constitutions and hence cannot be legislated effectively, although legislation too is fundamental. But the ideal of the secular state involves more than laws and constitutions, and reaches out to embrace the attitudes of groups and individuals toward those of other religions. In a circular letter to the Pradhesh (State) Congress Committees in August, 1954 Nehru regretted that the word 'secular' had to be used, chiefly for want of a better word. In this circular he explained that secularism did not mean a State in which religion as such was discouraged.[2]

The first step toward a secular state, according to Nehru, should be a policy of religious neutrality on the part of the state. The state should neither support or suppress any religion. One clause of the Karachi Congress resolution on Fundamental Rights, which was drafted by Nehru in 1931 stated that 'The State shall observe neutrality in regard to all religions.'[3] A more clear view on secular state was given by Nehru in 1951, when he described the secular state as one in which

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[2] Jawaharlal Nehru, Circular to the Pradhesh Congress Committees, August, 1954.

[3] Resolution on Fundamental Rights and Economic Policy, clause I (ix). Nehru, The Unity of India: Collected Writings 1937-1940, John Day Co., New York, 1948, p. 406.

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"the state protects all religions, but does not favour one at the expense of others and does not itself adopt any religion as the state religion."[4]

Religion, as far as a secular state is concerned, is purely a private and personal matter into which no state should intrude. The secular state does not mean that religion should not be an important factor in the private life of an individual. He should be free to practice or not to practice any religion, or to practice this or that particular religion to which he is attracted. It is a matter to be left entirely to his judgment. In a speech in the Lok Sabha (House of the People) in 1950, Nehru said that the secular state means, however, that "cardinal doctrine of modern democratic practice, that is, the separation of the State from religion. . ."[5]

During the period immediately following the independence, there were demands from Hindu communalists for the creation of a Hindu Rashtra or Hindu State. Nehru depracated their activities and observed that the Hindu communalists, in their opposition to the Muslim communalists and Pakistan, evidenced precisely the same mentality and approach and "advocate the poisonous thing the Muslim League stood for in the past."[6] In 1953, commenting on the decision of the Pakistan Constituent Assembly to declare Pakistan as an Islamic Republic, Nehru said that it reflects "a

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[4] The Hindu, July 17, 1951, p. 4.

[5] The Hindu, April 11, 1950, p. 7.

[6] The Hindu, July 26, 1948, p. 8.

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medieval conception, and it is totally opposed to any democratic conception."[7] No matter whether it is Islamic Republic or Hindu State, a state based on any particular religion is diametrically opposed to the democratic ideal of the secular state.

Nehru's concept of secular democracy was not restricted to state alone. There are other social institutions in the state and, according to Nehru, here too the principle of secular democracy should be applied. This leads to the second element of Nehru's conception of the secular state; namely, the process of secularization should extend to other areas of social life. Here he was aiming at certain social practices sanctioned by religion. In Glimpses of World History, Nehru pointed out how the old religions have a tendency to regulate every aspect of day-to-day life.

> Thus Hinduism and Islam, quite apart from their purely religious teachings, lay down social codes and rules about marriage, inheritance, civil and criminal law, political organization, and indeed almost everything else. In other words, they lay down a complete structure for society and try to perpetuate this by giving it religious sanction and authority. Hinduism has gone farthest in this respect by its rigid system of caste.[8]

Personal laws based on religion and the ramification of the society on the basis of a caste system which has at least some foundation in Hinduism are some of the obstacles toward the full realization of a perfect secular democracy in India. Nehru as we saw earlier had recognized this problem long before the

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[7] The Hindu, November 16, 1953, p. 1.

[8] Nehru, Glimpses of World History, p. 762.

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independence and since independence Nehru and his government had taken positive measures to face these problems. He considered the caste system as entirely against the principle of secular state.

> Thus, a caste-ridden society is not properly secular. I have no desire to interfere with any person's belief, but where those beliefs become petrified in caste divisions, undoubtedly they affect the social structure of secular state.[9]

The reasoning behind this statement is that the ideal of the secular state implies a social structure in which the individual should not be subject to the social inequalities imposed by religious sanction. The problem of personal law and caste system will be discussed more in detail in the next chapter.

The whole concept of the secular state is centered around the truth that the individual is the central point of the social organization and not any kind of group, and that equal rights should be secured to the citizens through democratic devices. The third element, then, in Nehru's conception of the secular state is expressed in terms of the fundamental rights of all citizens irrespective of religion.

Nehru brought out this point very clearly in the 1951 election manifesto of the Congress Party which he drafted. The manifesto stated to the point:

> As India is a secular State, every citizen has the same duties, rights, privileges and obligations as any other. He has full freedom to profess and practice his religion.[10]

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[9] Nehru, Circular to the Pradhesh Congress Committee, August, 1954.

[10] The Hindu, July 14, 1951, p. 6.

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A person's religious belief should have no relevance before the State in determining his duties and rights or privileges and obligations.

Partition of India in 1947 was followed by violence and bloodshed. Millions of people crossed the borders in Punjab and Bengal. Hindu communalists in India demanded that all the Muslims should go to Pakistan. But Nehru declared that because of India's fundamental conception of the secular state it could not and should not make such a demand.

> We cannot think in terms of pushing our people from India simply because they happen to belong to any particular religion. That is opposed to a democratic, secular and non-communal conception of a state.[11]

Again in 1954 when actions of certain Hindu groups created a feeling of apprehension in the minds of Indian Christians Nehru deprecated such acts.

> Anything that creates such an apprehension in the minds of any group in India is to be deprecated. It tends to disturb and it is opposed to our secular ideal.[12]

He said that if India fails to consider any of the religious minorities as much a part of India as any one else it "immediately leads us away from both our secular and democratic ideals. . ."[13]

The ideal of secular state is opposed to the 'religious, theocratic conception of a state which considers people of other

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[11] The Hindu, October 13, 1947, p. 6.

[12] Nehru, Circular to the Pradesh Congress Committees, August, 1954.

[13] Ibid., loc. cit.

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faiths as something beyond the pale.'[14] It was on this basis that Nehru criticized the proclamation of Pakistan as an Islamic State. Such a Constitution in effect creates two classes of citizens with unequal rights and opportunities. In fact it considers one group of citizens as superior to others because of the religion they profess. Nehru then went on to argue that the provision for the protection of religious minorities in such a Constitution does not radically alter the situation in as much as "the whole conception is that of a superior giving some kind of protection to an inferior."[15]

Psychologically it creates a sense of alienation among the minorities and a gratuitous provision for the protection of the minorities cannot remove this sense of alienation. This feeling of alienation will in turn create an atmosphere of insecurity and inferiority among the minorities.

We can, thus, trace three different elements in Nehru's ideal of the secular state: a) a policy of neutrality toward all religions on the part of the state; b) a social structure free from the inequalities imposed by religion; and c) equal rights for all citizens, irrespective of their religious affiliation. Combining these three elements, Donald E. Smith arrives at the following composite definition to Nehru's concept of secular state:

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[14] Speech at Aligarh, January 24, 1948. Nehru, Independence and After, John Day Co., New York, 1950, p. 122.

[15] The Hindu, November 16, 1953, p. 1.

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> The secular state is a state which is not associated with any particular religion but protects all religions, and in which all individuals enjoy equal political and social rights, status and opportunities, irrespective of religion or caste background.[16]

Secularism and Democracy

Nehru had often linked secularism with democracy. In his mind the two were apparently inseparable. The secular ideal is a sine qua non condition for the full equality professed by modern democracy. Religious or theocratic state has no relevancy in the modern times. It "was given up by the world some centuries ago and has no place in the mind of the modern man."[17] Nehru linked this idea of religious or theocratic state to the medieval period of European history when Christian nations launched the Crusades in the name of religion.

During the Reformation, the idea of religious state created chaos in Europe when the dictum 'cujius regio eius religio' was assumed as a principle of operation. It meant that the king and his subjects must be adherents of the same faith. As far as modern India was concerned this concept should be completely out of the question, declared Nehru:

> It is not possible for us to go back to a conception that the world has outlived and that is completely out of tune with modern conceptions.[18]

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[16]Donald E. Smith, Nehru and Democracy, Orient Longmans, Culcutta, 1958, p. 153.

[17]Speech at Aligarh, January 24, 1948. Nehru, Independence and After, p. 123.

[18]Loc. cit.

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If in the middle ages the religious or theocratic state was the rule of the day, in modern times the secular state is a rather common phenomenon. Therefore there is nothing unique about it.

> As a matter of fact, nearly every State in the world is a secular State in practice, even though it may have some old forms attached to it because no modern civilized State can be other than a secular State.[19]

It is this conviction that forced Nehru to warn some members of the Constituent Assembly that it had done nothing 'amazingly generous' in making India a secular state. In drawing up a Constitution which declared India as a secular state its law makers had done only something which almost every country in the world was doing, except for a few backward countries cut off from the mainstream of modern thought.

Practical considerations too suggested that modern India should be a secular state. Being a country with various religions, though a big majority of the people are Hindus, it was better for India to declare itself a secular state for the sake of peace and order. National progress depends on the unity among the people, which, in turn, can be achieved only through mutual respect and social equality. The granting of a special status to any particular group will create a feeling of apprehension and suspicion among others and such an approach is not only wrong in itself but will inevitably lead to friction and trouble.

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[19] The Hindu, July 17, 1951, p. 4.

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Communalism and Politics

One may hear frequent references to communalism in connection to Indian politics. To one who is not familiar with the background of Indian politics it may not mean anything special. Nevertheless, the particular sense in which it is used in India gives it a special meaning and great importance and it cannot be left out while discussing the secular character of Indian democracy. The term 'communal' in ordinary use is only a neutral adjectival form of the term community. But in the present context it is generally associated with a narrow, selfish, divisive, and aggressive attitude on the part of a religious group. The term 'communalism', therefore, "as it is used today in India, refers to the functioning of religious communities, or organizations which claim to represent them, in a way which is considered detrimental to the interest of other groups or of the nation as a whole."[20]

It is the political involvement of these particular communities for their own interest that is deprecated. If they are solely concerned with the religious and cultural affairs of particular sections of the population it is not considered as communalism.

Communal politics came into prominence in India during the struggle for independence itself. Then, it was mainly a kind of rivalry between the Hindu and Muslim interest groups. The former, being the predominant group, wanted to secure for itself

[20]Donald E. Smith, India as a Secular State, Princeton University Press, Princeton, N. J., 1963, p. 454.

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a dominant position in the free India and the latter wanted to preserve its interests intact. This rivalry eventually resulted in the partition of India, and with it communal politics has become something to be abhored.

Early during the independence movement, communal issue was not very prominent in so far as nationalism and communalism, especially Hindu communalism, had more or less the same goal, independence. Muslim community was not very articulate at this point and it more or less followed the leadership of the Congress. Later in the 1920's Hindu-Muslim relationship turned to the worse and the Hindu communalists gradually left the Congress accusing it of "appeasement" policy toward the Muslims.

Meanwhile, the Congress had drawn to its ranks some of the finest leaders of Hindu society under the leadership of Gandhi. Meanwhile, the Treaty of Sevres, which curtailed the temporal powers of the Khalif, angered the Indian Muslims who, under the leadership of the Ali brothers, Mohamed and Shaukat, had already made common cause with Gandhi. Suddenly, it created a great amount of unity between the Hindus and Muslims, a unity which did not last long. Mr. Mohamed Ali Jinnah's exit from Congress after the 1920 Nagpur session was a red light to the communal harmony. From then on, Jinnah and Muslim League assumed the leadership of the majority of Muslims. The Hindu Mahasabha and the Rashtriya Swayamsevak Sangh (RSS) assumed the leadership of the militant Hindu communalists. The Congress had to find a middle way and keep the nationalist movement out of communal rivalry. By now,

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the League began demanding the partition of India and the creation of a separate Muslim state.

Although only in the 1920's did it turn violent, communalism was in existence and operated in a low key long before. In fact, it was due to this development that the colonial powers introduced the communal award in 1909. Nehru and the Congress opposed the communal award right from the beginning. Nehru considered it as harmful to the interests of the minority.

> Indeed separate electorate made matters a little worse for the protected group, for the majority electorate lost interest in it and there was little occasion for mutual consideration and adjustment which inevitably take place in a joint electorate when a candidate has to appeal to every group.[21]

Nehru found it incomprehensible why various religious groups in India could not live together in harmony. Behind communal forces Nehru found political reaction. He thought it possible to co-operate with communalists provided the political objective is the same, but not with reactionaries.

> And it is this political reaction which has stalked the land under the cover of communalism and taken advantage of the fear of each community of the other. It is the fear complex that we have to deal with in these communal problems. Honest communalism is fear; false communalism is political.[22]

At the same time, he realized that communalism could not be wiped out by suppression. "Much as I dislike communalism I realize that it does not disappear by supression but by the removal of the

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[21] Nehru, Discovery of India, p. 387.

[22] Dorothy Norman (ed.), Nehru, the First Sixty Years (selected passages from Nehru's writings and speeches), London, Bodley Head, 1965, 328.

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feeling of fear, or by a division of interests."[23]

When he was Congress president Nehru tried to reach some kind of an understanding with Mr. Jinnah and the Muslim League. This was the purpose of the famous Nehru-Jinnah correspondence. This effort begun in the late 1920's, went on for a long time but without any understanding or agreement. Mr. Jinnah based himself on the fourteen point demand he issued in the name of the Muslim League.[24] These demands spelled clearly the position of the League and on most of the issues Nehru did not find any way to agree with Mr. Jinnah.

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[23] Ibid., p. 329.

[24] Sir Maurice Gwyer and A. Appadorai (ed.), Speeches and Documents on the Indian Constitution, vol. 1, Oxford University Press, 1957, pp. 246-7. Mr. Jinnah's Fourteen Points. March 28, 1929. (1) The form of the future Constitution should be federal with residuary powers vested in the Provinces. (2) A uniform measure of autonomy shall be granted to all Provinces. (3) All Legislatures in the country and other elected bodies shall be constituted on the definite principle of adequate and effective representation of Minorities in every Province without reducing the majority in any Province to a minority or even equality. (4) In the Central Legislature, Mussulman representation shall not be less than one third. (5) Representation of Communal groups shall continue to be by means of separate electorates as at present; provided it shall be open to any community, at any time, to abandon its separate electorate in favour of joint electorate. (6) Any territorial redistribution that might at any time be necessary shall not in any way affect the Muslim majority in the Punjab, Bengal and the North-West Frontier Provinde. (7) Full religious liberty, i.e., liberty of belief, worship and observance, propaganda, association and education, shall be guaranteed to all communities. (8) No bill or resolution or any part there of shall be passed in any Legislature or any other elected body if three-fourths of the members or any community in that particular body oppose such a Bill, resoltuion or part thereof on the ground that it would be injurious to the interests of that community or in the alternative, such other method is devised as may be found feasible and practicable to deal with such cases. (9) Sind should be separated from the Bombay Presidency. (10) Reforms should be introduced in the North-West Frontier Province and Baluchistan on the same footing as in other Provinces. (11) Provision should

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Nehru sharply disagreed with Mr. Jinnah's approach which was evidently communal. While he found many of the demands totally unacceptable because of the underlying communal principle, Nehru replied that many of the issues raised through the fourteen points are to be discussed by the Constituent Assembly of an independent India and that the immediate objective is to work jointly toward the independence of the country:

> But before considering them, the political and economic background of the free India we are working for has to be kept in mind, for ultimately that is the controlling factor. Some of these matters do not arise in considering an independent India or take a particular shape or have little importance. We can discuss them in terms of Indian independence or in terms of the British dominance continuing. The Congress naturally thinks in terms of independence, though it adjusts itself occasionally to the present transitional and temporary phases. It is thus not interested in amendments to the present Constitution, but aims at its complete removal and its substitution by a Constitution framed by the Indian people through a Constituent Assembly.[25]

Mr. Jinnah was a shrewd, aristocratic lawyer who did not believe in Nehru's socialistic and secular ideals. He argued that Hinduism and Islam were two incompatible ways of life and

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be made in the Constitution giving Muslims an adequate share, along with the other Indians, in all the Services of the State and in local self-governing bodies having due regard to the requirements of efficiency. (12) The Constitution should embody adequate safeguards for the protection of Muslim culture and for the protection and promotion of Muslim education, language, religion, personal laws and Muslim charitable institutions and for their due share in the grants-in-aid given by the State and by local self-governing bodies. (13) No Cabinet, either Central or Provincial, should be formed without there being a proportion of at least one-third Muslim Ministers. (14) No change shall be made in the Constitution by the Central Legislature except with the concurrence of the States constituting the Indian Federation.

[25] Ibid., vol. 2, p. 424.

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that they could not co-exist. In his Presidential Address at the Lahore Session of the All-India Muslim League in March 1940, he strongly argued in these lines and demanded a separate homeland for the Muslims:

> It is extremely difficult to appreciate why our Hindu friends fail to understand the real nature of Islam and Hinduism. They are not religions in the strict sense of the word, but are, in fact, different and distinct social orders, and it is a dream that the Hindus and Muslims can ever evolve a common nationality, and this misconception of the one Indian nation has gone far beyond the limits and is the cause of most of your troubles and will lead India to destruction if we fail to revise our notions in time. The Hindus and Muslims belong to two different religious philosophies, social customs, literatures. They neither inter-marry nor inter-dine together and, indeed, they belong to two different civilizations which are based mainly on conflicting ideas and conceptions. Their concepts on life and of life are different. It is quite clear that Hindus and Mussulmans derive their inspiration from different sources of history. They have different epics, different heroes, and different episodes. Very often the hero of one is a foe of the other and, likewise, their victories and defeats overlap. To yoke together two such nations under a single state, one as a numerical minority and the other as a majority must lead to growing discontent and final destruction of any fabric that may be so built up for the government of such a state.[26]

Earlier in March, 1937, Nehru had rejected any kind of communal approach to political problems. He declared in his Presidential address to the Congress session on March 19, 1937:

> We have too long thought in terms of pacts and compromises between communal leaders and neglected the people behind them. That is a discredited policy and I trust that we shall not revert to it. And yet some people still talk of the Muslims as a group, dealing with the Hindus or others as a group, a medieval conception which has no place in the modern world. We deal with economic groups today and the problems of poverty and unemployment and national freedom are common for the Hindu, the Muslim, the Sikh and the Christian. As soon as we leave the top fringe, which is

[26] Ibid., vol. 2, pp. 441-442.

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> continually talking of percentages of seats in the Legislatures and state jobs, and reach the masses, we come up against these problems. This way lies the ending of what has long been known as the communal problem.[27]

One of the points on which Congress and the League sharply differed was the so-called Communal Award. Separate electorate or Communal Award was established in 1909, by the British authorities to placate the Muslim League. The League then affirmed its loyalty to the British rule and made itself suspicious to the Congress,[28] Ever since the Congress opposed the award as anti-national and undemocratic. In one of his replies to Mr. Jinnah on the point Nehru said:

> The Congress has already stated its attitude towards the Communal Award, and it comes to this that it seeks alterations only on the basis of mutual consent of the parties concerned. I do not understand how any one can take objection to this attitude and policy. If we are asked to describe the Award as not being anti-national, that would be patently false. Even apart from what it gives to various groups, its whole basis and structure are anti-national, and come in the way of the development of national unity. As you know it gives an overwhelming and wholly undeserving weightage to the European elements in certain parts of India. If we think in terms of an independent India we cannot possibly fit in this Award with it. It is true that under stress of circumstances we have sometimes to accept as a temporary measure something that is on the face of it anti-national. It is also true that in the matters governed by the Communal Award we can only find a satisfactory and abiding solution by the consent and goodwill of the parties concerned. That is the Congress policy.[29]

Another point on which Congress and the League differed widely was the right of each organization to represent the

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[27] Ibid., p. 422.

[28] Beatrice Pitney Lamb, India: a world in transition, New York, Praeger, 1963, p. 85.

[29] Sir Maurice Gwyer and A. Appadorai, (ed.) Op. cit., vol. 2, p. 425.

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Muslims of India. League always held that it had the sole and exclusive right to represent the Muslims. In the elections of 1946, Muslim League got the overwhelming support of the Muslims and it demanded as a condition to its joining the Central Government, that it should have the exclusive right to represent the Muslims in the Cabinet. It meant then, that there could not be any of the Muslims elected on the Congress ticket on the Cabinet. Obviously, it irritated Congress and Nehru and he wrote to Jinnah:

> We are willing, as a result of the elections, to accept the Muslim League as the authoritative representative organization of an overwhelming majority of the Muslims of India and that as such and in accordance with democratic principles, they have today the unquestionable right to represent the Muslims of India, provided that for identical reasons, the League recognizes the Congress as the authoritative organization representing all non-Muslims and such Muslims as have thrown in their lot with the Congress. The Congress cannot agree to any restriction or limitation to be put upon it in choosing such representatives as they think proper from amongst the members of the Congress. We would suggest, therefore, that no formula is necessary and each organization may stand on its merits.[30]

League stand throughout the freedom movement was unaccomodating and it was not going to be satisfied without a separate 'homeland' for the Muslims. No amount of persuasion could make the League abandon this stand and finally the unavoidable happened. India was partitioned and a new state by name, "Pakistan," was created, a piece of it is on the north-west side of India and the other on the east side of India.

Though India was partitioned and Pakistan was created, not all Muslims did go to Pakistan. There was, however, a huge

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[30] Ibid., p. 647.

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shift of population which resulted in a terrible refugee problem in both countries. Naturally, communal groups that tried to create confusion at this moment came under bitter criticism from Nehru. Speaking on the refugee problem in West Bengal, he said in the Parliament:

> I should like to make appeal to our own people in this grave moment of crisis. If they desire that the Government should take effective action whenever necessary, they must realize that perfect order and security must prevail in India. There were anti-social elements and communal groups who, in spite of their declared opposition to communalism, really function in tune with the intense communalism that prevails in Pakistan. These elements have to be checked, because they bring disrepute to our people and weaken the country. Because of the very seriousness of the situation, we must remain calm and determined and not indulge in loose language or action, which is improper and harmful.[31]

Even after the partition there were about forty million Muslims living in India. Similarly, there were many Hindus who decided to stay in Pakistan. Moreover, the situation became aggravated as Pakistan declared itself a Muslim state. Hindu communal groups then demanded an exchange of population between the two countries on the basis of religion. Nehru, however refused to take any such action saying that it would be completely opposed to all the ideals to which free India is committed. In a speech in Parliament on August 7, 1950, on a motion concerning the Bengal situation he said:

> Now, take the proposal regarding the exchange of population. I ventured to describe it some months ago as a completely impracticable and fantastic proposal. I would like to repeat

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[31] Jawaharlal Nehru, Jawaharlal Nehru's Speeches, 1949 - 1953, The Publications Division, Ministry of Information and Broadcasting, Government of India, New Delhi, 1957, pp. 288-289.

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that it is fantastic and impracticable and that this Government will have nothing to do with it. Furthermore, it is completely opposed to our political, economic, social and spiritual ideals. If you want to have an exchange of population then you must change the whole basis of not only this Government but of all that we have stood for these thirty odd years and during the movement for freedom in this country. If people who have never had that background float about without any conviction or anchorage or faith, I can understand it. But we have a certain anchorage and if we lose that we shall lose ourselves, too. Therefore, let us be quite clear that these proposals are fantastic and impracticable not only because they involve war or something approaching war but also because in trying to work them out you will destroy the minorities, uproot millions of others and spend the rest of your life and that of the next generation in trying to rehabilitate them. Something even more important is involved in this. It is a question of faith and it involves our whole spiritual background which is even more important than the inconvenience and the distress which an action may cause us.[32]

After the independence there were strong demands from various quarters for abandoning the westernized customs and for going back to the traditions of the past. This in many cases would have meant the adaptation of old Hindu traditions and the proponents were very often prompted by communal motives. Nehru agreed that India should revert herself to her past customs as far as practicable. At the same time he warned that India should not support obscurantism in the name of nationalism. He deprecated the tendency of confusing the great things of the past with its minor trappings.

During a debate on the President's Address Mr. Mahavir Tyagi, a Congress member of the parliament complained about too much western customs in the Parliament. In his reply to the debate on February 3, 1950 Nehru agreed that Indian customs should

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[32] Ibid., p. 303.

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be introduced as much as it would be practical. Then he added:

> Nationalism is a great and vital force and, if we give up any part of the genius of our people and the basic traditions of our people, we lose a great deal thereby; we become rootless. At the same time nationalism often covers a multitude of sins and a multitude of things that are dead and gone. What is communalism after all? In its very essence it is a throwback to the medieval state of mind, medieval habits and medieval slogans. Let us, by all means, preserve every single Indian custom and every Indian way of thought; only, let us not go back to something that has no relevance to the modern world.[33]

Nehru as Prime Minister was accused of being soft towards Communists and Muslim Pakistan by right wing parties and Hindu communalists parties respectively. Communists, on the other hand, accused him of favouring the imperialists and the reactionaries. Yet none of these groups accused him of being a communalist. Though he did not have much respect for Pakistan because of its communal approach, his own policy on Kashmir was not motivated by any kind of communal hatred. In fact, Nehru was forced by circumstances to take a strong stand on Kashmir.

> Pakistan bases its case on the even less admissible argument that Kashmir is overwhelmingly Muslim and should, therefore belong to Pakistan. Nehru rightly refuses this communal claim, which would destroy the secular character of India in which some 40 million Muslims live as citizens with the same rights as Hindus.[34]

Because of Nehru's extreme popularity in the country he never minced any words in condemning the Hindu communalists. His outright stand against communal politics was a great contribution toward the orderly development of Indian democracy.

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[33] Ibid., pp. 268-269.

[34] "Deadlock in Kasmir." The New Statism and Nation, Vol. 41, Jan. 20, 1951, p. 55.

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Today, there are more than Fifty million Muslims living in India. Only Pakistan and Indonisia have a larger Muslim population. Pakistan is split into two parts and neither part has as many Muslims as India has. Besides, there are other religious minorities in India. Since independence there are many Muslims and other non-Hindus who occupy important positions in government and judiciary. Today, the President of India is an eminent Muslim scholar. The important portfolio of foreign affairs is handled by another Muslim. One salient factor today is that there are no protest or any particular type of hostility against such appointments.

At the time of Dr. Zakir Husain's election to the Presidency of the Indian Union, many leading newspapers all over the world acclaimed it as triumph for the secular principle cherished and advocated by Nehru.

> No facet of Dr. Zakir Husain's victory in the Indian Presidential election is more important than the demonstration that India is what Jawaharlal Nehru and other progressive Indians claimed it to be - a secular, not a Hindu, state.[35]

> It is a victory for the principles of the Prime Minister's father. Jawaharlal Nehru was not playing with mere theory when he insisted, as did Mahatma Gandhi, that the very existence of a free India would depend on religious tolerance.[36]

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[35] New York Times, Editorial, May 10, 1967.

[36] Baltimore Sun, Editorial, May 10, 1967.

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> Mahatma Gandhi fasted against the bitter division of his country, which he called the vivisection of India. Jawaharlal Nehru strove to prove his country is not a Hindu state but an Indian one.[37]

There was and there still is communal politics in India. But throughout his long political career Nehru fought against communalism. During his years of power he held it very well under control.

Gandhi and Nehru: a comparison of views

What influence, if any, did Gandhi have on Nehru in the development of the latter's ideas on secular state? Due to their close collaboration for so long a period, there should have been some influence. At the same time it is very important to remember that both approached the problem of relationship between state and religion from two different angles. Gandhi's approach was that of a 'man of religion, a Hindu to the innermost depths of his being.'[38] He considered all religions as equal and differed only as various branches of the same tree. He also thought that all religions contain some errors. To him all religions were as dear as his own Hinduism.

Because all religions are one, Gandhi felt that any form of political association based exclusively on adherence to a particular religion was worse than undemocratic. This was the reasoning behind Gandhi's opposition to the political activities of Muslim League. He opposed the partition proposal on the same

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[37] Chicago Daily News, Editorial, May 15, 1967.

[38] Nehru, Discovery of India, p. 365.

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basis, and called it an 'untruth.' The proposal for the creation of a religious or theocratic state was the logical culmination of religious exclusivism, and thus it ran directly counter to Gandhi's deepest convictions.

Operating on these presuppositions, Gandhi logically came to the conclusion that the state should be constructed in such a way that all religions can exist peacefully side by side. The State's function must be non-religious and must serve individuals rather than religious groups.

Though Gandhi and Nehru came to the same conclusion regarding religion and state, they reached it by an entirely different line of reasoning. Gandhi's starting point was that all religions are equal, and he accepted a theory of state which fitted in with this belief; hence secular state.

Nehru's approach was that of a practical politician and political thinker steeped in democratic principles, who, while personally believing all religions to be mostly untrue, had to provide for their freedom to function peacefully without prejudicing the democratic system; hence the secular state. This difference in approach shows that Gandhi's influence on this particular point was rather indirect in the sense that Gandhi's conclusions reinforced Nehru's own views regarding the necessity of a secular state.

The ideal of secular state was clear to Nehru even before the independence and during the period immediately following independence he exposed this ideal in a more articulate way because

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of the peculiar circumstances that existed at that time. Still, Nehru himself remarked that it is an ideal to be realized. In some areas, India made great progress under his leadership in the realization of this ideal. Yet, there are areas where there are difficult and sensitive problems to be solved. We will discuss some of those problems in the next chapter.

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CHAPTER III

SECULARISM IN PRACTICE

In the previous chapter we discussed Nehru's ideal of the secular state and his attitude toward communal politics. The present chapter brings into focus Nehru's application of this ideal to some of the specific areas and the problems related to it. We have to consider the whole problem on the Indian background. Some of the related problems are unique in India's case. Se we have to examine the background first to get a better understanding of the problem and Nehru's approach to them.

Without any stretch of imagination no one would assert that the modern democratic and secular state has its foundation in ancient India. K. M. Panikkar outrightly rejected any such idea. He wrote:

> Clearly, our new democratic, egalitarian and secular state is not built upon the foundations of ancient India, or of Hindu thought.[1]

Nevertheless, were there significant factors in the ancient past which to some extent looked toward a secular political order? In this connection we have to consider three different periods prior to the independence. First, the ancient and medieval India; then Islam and the Muslim State; and finally, the

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[1]K. M. Panikkar, The State and the Citizen, Asia Publishing House, Bombay, 1956, p. 28.

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British period. In ancient India, the foremost aim of the state was regarded to be the promotion of dharma (law, duty, morality, religion). Government was not based on dogma, and showed considerable impartiality in the treatment accorded to various sects. But the religious orientation of the state was pronounced.[2]

Ancient and Medieval India

The state was tolerant of all creeds and frequently aided them all. At the same time, in the promotion of dharma Hindu Kings built temples, endowed them and exercised strict supervision over them. Thus, the traditional Hindu state cannot be equated with the modern secular state. As Dr. E. C. Bhatty well pointed out, "the essential basis of a modern secular state is the institutional separation state and religion."[3]

However, there was a clear distinction between the functions of priest and king. The Vedic king discharged no priestly functions; he performed no sacrifices on behalf of the nation, as was done in ancient Egypt and Greece.[4] It was the priest or the Brahman who performed the sacrifices. Thus, there existed a separation between the temporal and the spiritual order. The

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[2]J. J. Anjaria, The Nature and Grounds of Political Obligation in the Hindu State, Longmans, Green and Company, Calcutta, 1935, p. 280.

[3]E. C. Bhatty, "Religious Minorities and the Secular State," Religious Freedom, Committee for Literature on Social Concerns, Bangalore, 1956, p. 74.

[4]A. S. Altekar, State and Government in Ancient India, Motilal Banarsidas, Banaras, 1949, p. 48.

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Brahman had high social status and several privileges, and his influence was great with the king and the subjects. During the Vedic period, he had a prominent place among the councilors of the king.

This Vedic prominence of the Brahman did not develop into an effective political role because of the lack of organization. Besides, the divinely ordained social system gave the function of governing to the Kshatriyas. There was not, and there still is not, an effective ecclesiastical organization in Hinduism and it is a significant factor in the development of a modern secular state in India.

As far as religious liberty was concerned, we can easily say that it always prevailed in ancient India. This does indeed represent an essential aspect of the secular state. Max Weber puts it in this way:

> It is an undoubted fact that in India, religious and philosophical thinkers were able to enjoy perfect, nearly absolute freedom for a long period. The freedom of thought in ancient India was so considerable as to find no parallel in the West before the most recent age.[5]

Islam and Muslim State

The next period under our consideration is the Delhi sultanate and the Mughal Empire. The Islamic society established by Mohammed in the seventh century A.D. was an integrated religio-political community. Neither in theory nor in practice

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[5]As quoted in Donald E. Smith, India as a Secular State, Princeton University Press, Princeton, N. J., 1963, pp. 61-62.

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was there a distinction between the spiritual and temporal order.

Traditionally, the historical link with Islamic polity was the caliphate. But throughout the important period of Muslim rule in India, this link was non-existent because of the violent end of the caliphate at the hands of the Mongol invaders. Under these circumstances, the Indian Muslim thought had to define the relationship between Islam and the Muslim ruler.

There was no uniform religious policy for the Muslim rulers. It ranged from the tolerance and syncretism of Akbar to the bigotry and fanatism of Aurungzib. Among the Muslim rulers only Akbar gave official encouragement to the spirit of tolerance by the religious discussion which he sponsored in his "Hall of Worship."

> In the modern age, he was the first and almost the greatest experimenter in the field of religious toleration if the scope of his toleration, the races to which it was applied, and the contemporary conditions be taken into account.[6]

Religious liberty, a common citizenship, and the institutional separation of religion and the state are the three main components of the secular state. During Akbar's reign there was religious liberty and a common citizenship. However, the third element was lacking and, after all, it would have appeared strange to Akbar. In this case he was no exception to the spirit of the time.

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[6]Sri Ram Sharma, The Religious Policy of the Mughal Emperors, Oxford University Press, Calcutta, 1940, p. 60.

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British India

Finally, we come to the colonial period. In this period we consider only the British rule. The British East India Company began as a commercial enterprise, but in time became a vast colonial power exercising all the functions of government. What was to be the religious policy of this trader-government? Commenting on the religious policy of the British, Raj D. E. Smith wrote:

> The religious policy of the British government on India was complex, for it was the result of an attempt to combine three conflicting roles. One religious policy was dictated by the commercial-imperial objectives of the British government, a second as an Indian ruler, and a third by its official profession of Christianity. During much of the first half of the nineteenth century, all three of these roles were being carried out simultaneously. Debate on questions of religious policy was frequently inconclusive, for there were three basic assumptions to choose from, each leading to a different conclusion on many issues.[7]

The British East India Company was dictated by common sense to adopt a policy of neutrality as far as religion was concerned. Its primary interest was commercial and any other policy would have only adversely affected that interest. The directors of the Company "felt themselves under no obligation to risk their dividends or position by any steps that might lead to tumult or uprising, or to any radical changes in the habits and attitude of the people from whom their wealth was derived."[8] This was evidently a policy of pragmatism which yielded good dividends. As Britain's Indian empire expanded, the conviction

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[7]Donald E. Smith, India as a Secular State, pp. 65-66.

[8]Arthur Mayhew, Christianity and the Government of India, Faber and Gwyer Ltd., London, 1929, p. 44.

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deepened that religious neutrality was sound imperial policy as well as good business. But there was no abstract theory of secularism or religious tolerance involved here.

Side by side this commercial interest there was also the role of the ruler. The British government pledged itself to continue the rights, privileges, and immunities granted by the former Hindu or Muslim ruler. This meant that the British authorities had to endow and protect the temples and mosques as the former rulers did. The public opinion in India was strongly in favour of the British authorities assuming such a role.

Following the tradition the British government endowed and supervised the administration of temples and mosques. It also levied piligrim tax as it was the tradition. But there were favourable and unfavourable interpretations of this tax. The British, however, decided to continue the practice. Another way in which the British participated in religious affairs was through the presense of government officials and troops at religious festivals. This too was a continuation of old practice. Inevitably there were criticisms on all these issues; the British, however, wanted to maintain the status quo.

The third role that the British government had to assume was that of a Christian government. Beginning in 1644 the East India Company had sent chaplains to attend the needs of the employees stationed in India. However, the company did not take initiative in building churches although it was willing to contribute to private efforts.

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When the charter of the company was renewed in 1813 the Parliament made provision not only for the entry of missionaries but also for the appointment of a bishop and three archdeacons of the Church of England. From then on, the Bishops were appointed by the crown and paid from the public revenues of India. However, in the beginning the bishops were very cautious and refused to ordain local candidates or license missionaries fearing that it would antagonize the Hindus and Muslims. Later, bishops started more active missionary works and they exercised their jurisdiction according to the ecclesiastical laws of England. Thus, as Whitehead put it, "the company through the bishops became officially connected with the missionaries and their Indian congregations."[9]

Later on, the Church of Scotland and the Roman Catholic church in the Madras Presidency also started receiving allowances for their ministrations to British soldiers of their faith. Until the early first quarter of the nineteenth century the ecclessiastical organization of the Church of England in India was relatively simple. Later developments, however, justified Bishop Whitehead's statement in 1924 that "the position of the Church of England in India for the last hundred years has been more complex and anomalous than that of any other church in Christendom."[10] There was no universal law regarding jurisdiction

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[9]Henry Whitehead, Indian Problems in Religion, Education, Politics, Constable and Company, London, 1924, p. 97.

[10]Ibid., p. 90.

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over the Anglican bishops in India. Criticisms on the church and state relationship of this period came mostly from within the church. The close relationship between the government of India and the Church of England in India continued until the independence. The British were criticized not so much for their religious policy as for playing politics between Hindus and Muslims.

Summing up this short discussion we can note facts which provide some foundation for a secular state and others which contradict the secular ideal. Hindu rulers in general and Muslim rulers like Akbar tolerated the co-existence of diverse creeds and that greatly contributed to the freedom of religion which is essential to a secular state. The British rule maintained the status quo but more than that it reinforced an equalitarian legal structure, a secular educational system, and the traditions of a modern administrative state. Then the Indian National Congress from its very beginning defined its aims in terms of secular political objectives and generally remained faithful to the ideal of non-communal nationalism.

There are also elements which go against the secular ideal. Although the Hindu rulers tolerated different creeds, they were closely associated with the Hindu religion, and enforced the class inequality by law. With the exception of Akbar, the Muslim rulers were generally intolerant toward other religions and did everything to promote Islam. The British rulers, while professing the principle of religious neutrality, gave

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substantial aid to Christian missionaries during certain periods, and established the Church of England as its official religion. The Indian National Congress generally remained faithful to its secular political ideal. However, the extremists in the Congress should be held partly responsible to the alienation of the Muslims. Yet one has to agree that there were positive factors which provided favourable ground for a secular state.

New India: Constitutional Provisions

To find the legal basis of the secular state of India, we have to examine the Constitution of India which is the basic law of the land. The word 'secular' never occurs in the Constitution of India. Yet one can identify all the characters of a secular state in the Constitution.[11]

Though the word secular does not occur in the Constitution, it is generally agreed by all that it is based on the secular ideal. In 1954 Nehru wrote: "Our Constitution is based on this secular conception and gives freedom to all religions."[12] In the Constituent Assembly there were members who strongly advocated for a Hindu State. One of the leading nationalists of the time and a great leader from West Bengal, Mr. S. P. Mukharjee was strongly in favour of it. However, the secular point of view advocated by Nehru was approved by the Assembly and finally Mr.

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[11] See Appendix A for the constitutional provisions regarding the secular state.

[12] Jawaharlal Nehru, Circular to the Pradhesh Congress Committees, August, 1954.

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Mukharjee resigned from the Cabinet and the Party and joined the Jan Sangh, a Hindu, communal Party.

The constitutional provisions for the secular state may be summed up under four headings: (1) Individual freedom of religion [Art. 25(1)]; (2) Collective Freedom of religion [Art. 26, Art. 30(1,2)]; (3) The right of the individual for equal treatment by the state irrespective of religion [Art. 15(1,4), Art. 16(1, 2, 4, 5), Art. 29(2), Art. 325, 330(1), 332(1)]; The separation of state and religion [Art. 27, 290A, 28(1,2,3)]. The most important ones of these provisions are found in Part III, Fundamental Rights, of the Indian Constitution.

The realization of the ideal of the secular state depends on various other factors going far beyond the letter of the law. Nevertheless, a favourable constitutional framework is created, which is a prerequisite for the realization of this ideal. It is on the basis of this constitutional framework that Nehru reported to the All-India Congress Committee that "India is a secular state."[13]

We saw earlier that freedom of religion is an absolute requirement for the secular state. In the early 1950's serious attempts were made by certain sections of the Hindu community to bring about serious restrictions on the activities of Christian Missionaries. In 1954 Mr. Jethalal Joshi, a member of the Congress Party introduced The Indian Converts (Regulation and

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[13]Nehru, Report to the All-India Congress Committee, 1951, p. 9.

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Registration)Bill in the Parliament. This bill provided that: (a) persons or institutions engaged in converting people would have to secure a license from the district magistrate; (b) a register of conversions would be maintained; (c) a prospective convert would have to make a declaration of his intentions to the district magistrate one month prior to the actual date of conversion; (d) the license-holder and the convert would be required to give particulars regarding the conversion within three months after it took place.

At the initial stage of the introduction of the Bill it was opposed by a Muslim member, Mr. Pocker Saheb. He declared that the bill clearly contravened Article 25 of the Indian Constitution:

> When such conditions are put, then it means that the conversion of a man from one religion to another is dependent upon the discretion of the district magistrate, which, I submit, is a virtual denial of the right.[14]

Despite this objection, the house adopted the motion granting the introduction of the bill.

The Bill was opposed by the government when the house took it for further consideration in December 1955. In a notable speech, Prime Minister Nehru declared that the proposed legislation would create more evils than it would remedy.

> I am anxious, many other members of this house must be anxious, to avoid giving the police too much power of interference everywhere.

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[14] Lok Sabha Debates, 1954, part 2, vol. 9, col. 4078-4079.

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Such a legislation would likely inflict considerable harassment on a larger number of people.

> Personally, I would not pass such a measure unless it has the fullest support from the principal parties who are likely to be affected by it. If this measure apparently is meant to apply to Christian missionaries carrying on this conversion, I would like the real decision to lie with the Christian members of this house. Let them decide. In principle there is no difference. Nobody wants deception; nobody wants coercion. In practice this attempt to prevent that may well give rise to other forms of coercion.

He also urged the house to bear in mind the effect its decisions would have on the minorities:

> We must not do anything which gives rise to any feeling of oppression or suppression in the minds of our Christian friends and fellow-countrymen in this country.[15]

The bill was later rejected by the house by an overwhelming vote.

No amount of pressure from Hindu communalists could change Nehru's mind on the point. He resisted every attempt to restrict the right to propagate religion, not because it was practical politics but because he believed in the ideal of secularism.

Abolition of Separate Electorates

The Constitution of India abolished the system of separate communal electorates which was in effect since 1909. The new Constitution provides that:

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[15] The text of this speech of December 2, 1955 is reproduced in full in National Christian Council Review, 1956, vol. 76, pp. 19-21.

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> There shall be one general electoral roll for every territorial consistuency . . . and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them. (Article 325).

According to the separate electorate system established in 1909 through the communal award Muslim candidates could be elected only by separate Muslim electorates to seats reserved to Muslims in legislatures. Later, this system was extended to other communities too.

We saw in the previous chapter that Nehru from the very beginning objected to this system. His own statements reveal four main reasons for his stand against separate electorate. First, he held that such a system would tend to isolate the minorities from the rest of the community, and this ultimately impedes the national unity. This separation only solidified the religious cleavages instead of bringing different groups together. An extension of the underlying principle meant the organization of the whole society on a communal basis.[16] Psychologically, it alienates the majority from the minority and without the understanding and sympathy of the majority a minority cannot function successfully, In a speech in the Constituent Assembly Nehru observed that, in the final analysis, nothing could really protect a minority more than the goodwill of the majority, for ultimately the will of the majority will prevail in a democracy.[17]

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[16] Nehru, The Discovery of India, p. 357.

[17] India, Constituent Assembly Debates, 1949, vol. VII, p. 330.

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Secondly, separate electorate tends to weaken the minorities by enabling them to depend on artificial groups instead of developing self-reliance. Minority gets a kind of false sense of security and strength. Consequently, enough efforts will not be made to improve in the field of education, culture, and economics.[18]

Thirdly, according to Nehru, a separate electorate diverts the attention of the people from the pressing social and economic problems to imaginary ones like communalism. Public attention is diverted from the main issues facing the society such as poverty and ignorance.

Fourthly, for Nehru, a separate electorate means the negation of democracy itself. In support of his stand Nehru quoted the Montagu-Chemsford Report on India Constitutional Reform, which said:

> Division by creeds and classes means the creation of political camps organized against each other, and teaches men to think as partisans and not as citizens. . . We regard any system of communal electorates, therefore, as a very serious hindrance to the development of the self-governing principle.[19]

These reasons guided Nehru to conclude with respect to separate electorates that "undoubtedly the injury they have caused to every department of Indian life has been prodigious."[20]

The question regarding the fair representation for the minorities in legislatures came up in the early sessions of the

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[18]Nehru, Independence and After, p. 51.

[19]Nehru, The Discovery of India, p. 358.

[20]Loc. cit.

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Constituent Assembly of India. The Advisory Committee on Minorities and Fundamental Rights, of which Nehru was a member, came up with the recommendation that a fixed number of seats should be reserved for the minorities for a period of ten years. This recommendation was incorporated into the draft constitution in spite of some opposition. The Committee recommended this reservation

> in order that minorities may not feel apprehensive about the effect of a system of unrestricted joint electorates on the quantum of their representation in the legislature.[21]

Nehru was not happy about the proposed reservation of seats and referred to it as one of the 'definite communal elements' of the draft Constitution and also expressed his personal view that 'the less reservation there is the better.'[22]

Finally, the recommendation was taken up for reconsideration with the co-operation of a number of minority spokesmen. On May 11, 1949, the Advisory Committee passed the resolution of Dr. H. C. Mukharjee: "That the system of reservation for minorities other than scheduled castes in Legislatures be abloished."[23] Defending this new resolution Nehru said that psychologically it was a good move "for it shows that we are really sincere about

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[21] India, Constituent Assembly Debates, 1949, vol. VIII, pp. 310-11.

[22] Nehru, Independence and After, p. 49.

[23] India, Constituent Assembly Debates, 1949, vol. VII, pp. 310-311. Under the Constitution as ratified, there is reservation of seats for Scheduled Castes and Tribes and Anglo-Indians for a period of ten years. At the expiration of that date it was further extended by the Parliament.

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this business of having a secular democracy."[24] At the same time, Nehru urged Congressmen to give adequate representation to the minorities while choosing candidates for election. Prior to 1951 general election, Nehru wrote to all election committees of the Party that it was a matter of great practical importance and of honour for the Congress to give adequate representation to the minorities. He reminded them that the decision to abolish separate electorates and reservation of seats meant increased responsibility for the majority community.[25]

The question of minority representation was solved by the Constituent Assembly with the help of the parties concerned. But there were other issues, such as Religious Personal Laws and Caste System, which had to be dealt with in the process of building up of a secular democracy. These issues were complex and the political realities had to be taken into account while implementing the concept of secular democracy.

Personal Laws and Uniform Civil Code

As Nehru pointed out, religions like Hinduism and Islam tend to regulate the entire life of the individual. Both these religions had developed a complicated system of personal law affecting important areas of civil law, including marriage, divorce, inheritance, and succession. These laws were later incorporated into the judicial system organized on the British

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[24] Ibid., p. 332.

[25] The Hindu, September 27, 1951, p. 5.

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pattern. The courts judged the cases on the basis of these personal laws, which evidently were very complicated and did not fit in very well with the concept of the secular state.

Both because of the confusion created by these personal laws and because of the principle involved here, Nehru government decided to bring about a uniform civil code. Early in 1941, the government of India had appointed a Hindu Law Committee with Sri B. N. Rao as chairman. On the recommendation of the Committee bills on succession and marriage were introduced in the central legislature in 1943. But because of opposition from orthodox Hindus they were eventually allowed to lapse. The Committee, however, was reappointed and it continued to work and after three years of hard work submitted the draft Hindu Code Bill. The bill was introduced in the central assembly just before the independence but the tremendous upheavals that followed the independence made it necessary to shelve the measure for the time being.[26]

The Hindu Code Bill was finally reported out by the select committee of the Constituent Assembly in 1948. Again, it failed to reach the final stage of enactment and in September, 1951 it was dropped by the government. In the committee and in the Assembly, orthodox Hindu members made every effort to delay the enactment of the bill. In announcing the decision to drop

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[26]Renuka Ray, "The Background of the Hindu Code Bill," Pacific Affairs, 1952, vol. 25, pp. 273-275.

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the bill Nehru pleaded shortness of time as the reason. But there were strong suggestions that the reason was adverse public opinion.[27]

However, Nehru took a strong stand on the issue in the general election campaign of 1951-1952. In his speeches he emphasized the socially progressive provisions of the bill. In his Presidential Address to the Indian National Congress Annual Session in October 1951 he said:

> Thus, the Hindu Code Bill, which has given rise to much argument, became a symbol of the conflict between progress and reaction in the social domain. I do not refer to any particular clause of that Bill, . . . but rather to the spirit underlying that Bill. This was a spirit of liberation and of freeing our people and, more especially, our womenfolk, from outworn customs and shackles that bound them.[28]

Shortly after the election of the new Parliament, the main parts of the Hindu Code Bill were introduced as separate bills and were passed in rapid succession by heavy majorities. During the debate some accused Nehru government of discriminating against the Hindus and thus violating the underlying principle of the secular state and the Indian Constitution. The Hindu, a leading national newspaper also accused Nehru of singling out the Hindu society for social reform.[29]

Nehru considered the codification of the Hindu law only as a step toward uniform civil code binding all citizens. This

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[27] The Hindu, September 20, 1951.

[28] Speech of October 18, 1951, Presidential Address to the Indian National Congress, pp. 9-10.

[29] The Hindu, December 10, 1954.

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approach is evident in the following exchange with a member in the Parliament during the debate. Commenting on the proposal of some, that a uniform civil code be enacted, the Prime Minister declared:

> Well, I should like a civil code which applies to everybody, but . . .
>
> Mr. More: What hinders?
>
> Mr. Nehru: Wisdom hinders.
>
> Mr. More: Not wisdom but reaction hinders.
>
> Mr. Nehru: The honourable member is perfectly entitled to his view on the subject. If he or anybody else brings forward a Civil Code Bill, it will have my extreme sympathy. But I confess I do not think that at the present moment the time is ripe in India for me to try to push it through. I want to prepare the ground for it and this kind of thing is one method of preparing the ground.[30]

Nehru did not want to create an unsettling effect upon the minorities, especially Muslims, by introducing a uniform civil code. He wanted to prepare them for it and, thus, he was constrained to sacrifice for the time being a significant principle of the secular state such as a uniform civil code.

Caste and Politics

While discussing his conception of the secular state, Nehru once wrote to the Pradesh Congress Committees that "a caste-ridden society is not properly secular." Caste system in India is centuries old and it is practiced with religious overtures. But a secular state implies a social structure in which the individual would not be subject to the social inequalities

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[30] Times of India, September 16, 1954.

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imposed by religious sanctions. And caste system is a formidable obstacle to the realization of this ideal.

According to Nehru's analysis, caste system has been greatly responsible for the weakening of Indian civilization. The caste system in the early centuries had a certain flexibility, but later, "along with the growth of rigidity in the caste system grew rigidity of mind, and the creative energy of the race faded away."[31] As an "inevitable result of the growing rigidity and exclusiveness of the Indian social structure"[32] economy began to shrink, which in turn caused the decline of Indian civilization.

The Constitution of India marked a great step forward with the abolition of untouchability. In Article 17 it is stated:

> 'Untouchability' is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of 'untouchability' shall be an offence punishable in accordance with law.

Article 15(2) states that no citizen, on grounds of religion, race, caste, sex or place of birth, should be denied access to shops, restaurants, etc., or the use of public wells, bathing ghats, or roads, etc.

Article 46 of the Constitution of India states as the Directive Principles of State Policy the promotion of educational and economic interests of the Scheduled Castes, Scheduled Tribes, and other weaker sections of the population. As early as 1944

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[31] Nehru, The Discovery of India, p. 86.

[32] Ibid., p. 221.

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Nehru advocated such a policy:

> Therefore not only must equal opportunities be given to all, but special opportunities for educational, economic, and cultural growth must be given to backward groups so as to enable them to catch up to those who are ahead of them.[33]

In accordance with the spirit of Article 46 much has been done since independence to improve the lot of the weaker sections of the population. Both Central and State Governments have Harijan Welfare Departments[34] concerned mainly with the welfare of the lower castes. As we saw earlier in this chapter there are special constitutional provisions made in the Constitution for the reservation of seats in legislatures for the Scheduled Castes and Tribes.[35] Besides this, there are special provisions for governmental jobs and reservation of seats in educational institutions for them.

However, a Government Order of the Madras Government making reservations in educational institutions for certain classes and communities was declared unconstitutional by the Madras High Court. The Court declared that the Order violated Article 29(2), which states:

> No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

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[33] Nehru, The Discovery of India, p. 533.

[34] Harijan literally means 'people of God' and was the term which Gandhi applied to the outcaste groups.

[35] See p. 57 and also footnote 23 on the same page.

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This decision of the High Court necessitated a constitutional amendment in the form of article 15(4). This article provided:

> Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.

In defending the proposed amendment Nehru agreed that it meant the giving up of a strict interpretation of equality [Article 15(1)] in favour of the gradual elimination of the inequalities to which the backward classes had been subjected. He conceded the logical soundness of the Madras High Court decision. He agreed that:

> . . . if communities as such are brought into the picture, it does go against certain explicit or implied provisions of the Constitution.[36]

Nevertheless, the fact remained that certain communities remained socially, economically, and educationally backward and something had to be done to improve their lot. Nehru agreed that it was a paradox that "in trying to attain equality we came up against certain principles of equality laid down in the Constitution."[37] He denied that the ammendment would be abused and it will only increase the communal divisions that have caused so much injuries.

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[36] Speech in the House of the People. May 29, 1951. Jawaharlal Nehru's Speeches, 1949-53, p. 517.

[37] Ibid., p. 518.

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The fact, however, remained that the amendment envisaged aid to the socially and educationally backward people as communities and not as individuals. From Nehru's statements made it clear that he had no communal interest in getting the amendment enacted. The only thing he wanted was the improvement of the conditions of backward groups. Nevertheless, was it really a wise move? We will discuss this issue in the next chapter, while evaluating Nehru's approach to the secular state.

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CHAPTER IV

EVALUATION AND CONCLUSION

This concluding chapter will attempt to make a critical evaluation of Nehru's concept of the secular state and his contribution toward the realization this ideal in modern India. The concept of the secular state is of a later origin. At first it developed in terms of 'separation of church and state.' It gradually evolved in the eighteenth and nineteenth centuries out of definite historical situations.

The expression 'separation of church and state' does not have the identical meaning for everyone. In Europe it means, or it meant, that complete isolation which derives from century-old misunderstandings and struggles, and which has produced most unfortunate results. Behind the expression there is the long history of the fusion of spiritual and temporal powers and all the undesirable effects of such a mix-up. The historical background gives a particular colouring to the expression in Europe. This particular background is lacking in the United States and, hence, it does not recall any misunderstanding or ill-feeling of the past. The expression 'separation of church and state' means together with the refusal to grant any privilege to one religious denomination in preference to others and to have a State established religion, a distinction between the State and the

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Churches which is compatible with good feeling and mutual co-operation.[1]

Nehru's theory of the secular state is more or less a twentieth-century interpretation of the American type of secularism in terms of the Indian state and society. As we saw earlier in the first chapter his own attitude toward religion enabled him very much in taking a neutral position on various religions. He was a great idealist and humanist at the same time. His educational background enabled him to look at his own country and its social structure with a critical eye. Poverty, ignorance, and human misery caught his attention and diversity of creeds did not mean much to him. He considered religion as a personal matter where the state has no reason to interfere. State's function is to provide equal opportunity for all citizens free from the inequalities established by religion or custom.

It was no political expediency for Nehru to expound and put into practice the ideal of the secular state in India. Politically, it would have been much more expedient for him, especially after the partition of India on the basis of religion, to stand for a Hindu State. But by taking a stand which was against the wish of many, Nehru showed his sincerity and dedication to the secular ideal. It meant a greater burden for him. Partition of the country had created an atmosphere which was not very suitable, to say the least, to expound the secular ideal. Indeed to do so required courage and conviction.

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[1]Jacques Maritain, Man and the State, University of Chicago Press, Chicago, Twelfth Impression, 1966, pp. 182-183.

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The theory of the secular state in India raises many problems unknown to Western political experience, such as separate electorates for the various religious communities, communal personal laws, the caste system and so forth. The secular state as it is envisaged after the independence was something new in India. The idea of religious toleration was there long before and, as we saw earlier in the third chapter, was practiced by most rulers. Nehru had first to expound his ideal of the secular state to the people and he never spared any opportunity to do so.

Nehru's significant contribution lies in the adaptation and application of the ideal of the secular state to Indian politics. No one can claim that he had a complete success in this attempt. Nevertheless we can safely assert that he laid a solid foundation for the future and created a strong tradition for the secular ideal.

Throughout his long political career he fought against communal politics, one of the greatest menaces to the secular state. The problem with communal politics is that it involves a certain attitude which cannot be met with legal means. Only by showing to the people concerned that it is not going to yield the dividend they are looking for can a governmental authority check communalism in politics. And it is precisely due to this reason that Nehru always rejected the suggestion to ban communal parties. By banning a party we cannot change the attitudes of the people. There is communal politics in India even today. However, it is very doubtful that it will ever gain enough

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momentum to undo the secular tradition of the past twenty years.

There is an excellent constitutional framework for the secular state in India today. This framework was well respected in the past and there is no reason to believe that this will suddenly be thrown overboard.

A uniform civil code is a "must" in the secular state. Nehru was well aware of this need and was working toward that goal. Because of the peculiar circumstances that prevail in India he could not accomplish it as quickly as he or anyone would wish. Yet, despite great opposition, he decided to act slowly on the matter and today India is much closer to that ideal. Only practical wisdom prevented Nehru from enacting a uniform civil code. But it will come, and great progress is being made in that direction.

The practice of castism is a negation of the equality of opportunities provided by a secular constitution. Caste system in India is an ancient social practice with religious bias. Constitution has abolished 'untouchability' and the practice of it made a crime punishable by law. This is a step toward the ideal of a casteless society. Meanwhile, Nehru and the government was faced with the problem of improving the conditions of those who suffered from the injustice of the caste system. We discussed in the third chapter some of the measures enacted by the Nehru government to achieve this goal.

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Many observers have questioned the wisdom of some of these measures. First, it is argued that aid on the basis of communities seems to perpetuate caste differences. Special housing colonies -- though of improved quality --, separate schools, and separate hostels only keep these people segregated from the rest of the community. This argument is countered by saying these provisions are temporary and once their living conditions and educational standards are improved these people will be of their own.

The second objection is that the present provisions for help imply religious discrimination. What about a Harijan converted to Christianity? This is a real problem in some states. It is extremely difficult to find a suitable formula to cope with this problem. Yet some improvements have been made since 1951.

Thirdly, is there always a real correlation between caste and economic status? There are many who are eligible for this special consideration on the basis of caste. However, their economic status should really deprive them of this special benefit. This is an anomaly which should have no place in a democracy. Those who benefit from these special provisions do not want to give them up as they are legally entitled to them.

Finally, there are those who feel that the present approach on the basis of caste and community violates one of the cardinal principles of democracy, namely that the State deals with its citizens primarily as individuals and not as groups. Thus, one can note many defects in the present arrangement for

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the improvement of the conditions of Harijans. Nehru himself agreed to this when he said that it was the paradox that 'in trying to attain equality we came up against certain principles of equality laid down in the Constitution.'

Despite these anomalies, India has made great progress toward the goal of an ideal secular democracy. One who knows the past history of the country cannot fail to recognize this progress. Much credit for this should go to Jawaharlal Nehru who through out his long political career had striven for it.

Is this foundation laid by Nehru strong enough, so that India can successfully face the problems of other fronts, without worrying too much about her secular ideal, which, in the given circumstances, is essential to her unity and stability? In normal circumstances the foundation should be strong enough, and it has a decent tradition of almost twenty years. However, nobody can deny that there had been tendencies in the country which always tried to wreck the secular ideal. As long as Nehru was on the scene, these tendencies could never succeed. His hold on the people was so strong that no individual politician or political party could successfully challenge him before the people on such a fundamental issue as the secular ideal.

Rich and poor, learned and ignorant, Hindu and Muslim, Christian and Parsee, all could identify themselves with Nehru and the India he envisaged. They did not have the slightest doubt about his dedication to their welfare and to the cause of the country. For the people, he was a great symbol of dedication and sacrifice for the cause of India.

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There is no other leader in the country today who can claim that kind of respect and support of the people. However, there are people interested in government and politics, who are capable and sincere and if they can pull together, the foundation should be safe enough and the future should be bright. But the struggle for power among Congressmen, even at the top, and the attempts of communal forces in the country to cash in on the confused situation by appealing to the religious susceptibilities of the people for their own political ends, should give concern to all.

One has to acknowledge that it is almost impossible to think of the secular state in India apart from the tremendous influence which Jawaharlal Nehru has exercised in implementing this principle. Even though Nehru is no more in the scene it is hard to believe that India will reject the secular ideal so vigorously expounded by Nehru. It would mean that the country would have to repudiate Gandhi and Nehru, a virtual impossibility at the moment.

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APPENDIX A

CONSTITUTIONAL PROVISIONS REGARDING THE SECULAR STATE

I. Freedom of Religion

Individual freedom of religion

Art. 25(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the state from making any law-

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I. - The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

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Explanation II. - In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Collective freedom of religion

Art. 26 Subject to public order, morality and health, every religious denomination or any section thereof shall have the right-

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.

Art. 30(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

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II. Citizenship

No state discrimination on grounds of religion

Art. 15(1) The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Equality of opportunity in public employment

Art. 16(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the state.

(4) Nothing in this article shall prevent the state from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state.

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(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any members of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

No discrimination in educational institutions

Art. 29(2) No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them.

No communal electorates

Art. 325 There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the house or either House of the Legislature of a state and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Art. 330(1) Seats shall be reserved in the House of the People for-

(a) the Scheduled Castes;

(b) the Scheduled Tribes . . .

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Art. 332(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes . . . in the Legislative Assembly of every state.

III. Separation of State and Religion

No special taxes for promotion of religion

Art. 27 No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Art. 290A A sum of forty-six lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the state of Kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the state of Madras every year to the Devaswom Fund established in the state for the maintenance of Hindu temples and shrines in the territories transferred to that state on the first day of November, 1956, from the state of Travancore-Cochin.

No religious instruction in state educational institutions

Art. 28(1) No religious instruction shall be provided in any educational institution wholly maintained out of state funds.

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(2) Nothing in clause (1) shall apply to an educational institution which is administered by the state but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognized by the state or receiving aid out of state funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

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APPROVAL SHEET

The thesis submitted by Reverend Victor Z. Narivelil has been read and approved by the director of the thesis. Furthermore, the final copies have been examined by the director and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content and form.

The thesis is therefore accepted in partial fulfillment of the requirements for the degree of Master of Arts.

11-30-67
Date

Allan Lawson
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